

**REMARKS**

The Office Action of April 10, 2006, has been received and reviewed.

Claims 1-20 are currently pending and under consideration in the above-referenced application. Of these, claims 1-13 stand rejected, while claims 14-20 have been allowed.

Claims 8-10 have been canceled without prejudice or disclaimer.

New claims 53-57 have been added.

Reconsideration of the above-referenced application is respectfully requested.

**Rejections under 35 U.S.C. § 102**

Claims 1-12 have been rejected under 35 U.S.C. § 102.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Ayer

Claims 1-12 are rejected under 35 U.S.C. § 102(b) for being drawn to subject matter that is allegedly anticipated by the subject matter disclosed in U.S. Patent 4,353,372 to Ayer (hereinafter "Ayer").

Ayer describes a medical cable set that includes a common trunk that carries a plurality of electrodes. An electrical connector is located at one end of the trunk. Individual electrodes branch from the trunk at various locations along the length thereof. An electrode of the type used in an electrocardiogram (ECG) is located at the end of each electrode branch.

While adjacent electrode branches of the cable of Ayer are spaced apart from one another, Ayer does not provide any express or inherent description that the electrodes are or may be "spaced apart from one another a distance that facilitates the non-invasive impedance measurement of tissue constituents," as would be required for Ayer to anticipate each and every element of independent claim 1, as amended and presented herein. Instead, the disclosure of

Ayer is limited to use of the cables with ECG apparatus, which monitor activity of the heart rather than constituents of the heart or any other tissue.

Moreover, none of the electrodes of the cable described in Ayer is linear.

It is, therefore, respectfully submitted that, under 35 U.S.C. § 102(b), the subject matter recited in amended independent claim 1 is allowable over the subject matter described in Ayer.

Claims 2-7, 11, and 12 are each allowable, among other reasons, for depending either directly or indirectly from amended independent claim 1, which is allowable.

Claims 8-10 have been canceled without prejudice or disclaimer, rendering the rejections thereof moot.

Gadsby

Claims 1-4 and 8-10 stand rejected under 35 U.S.C. § 102(b) for reciting subject matter that is purportedly anticipated by the subject matter described in U.S. Patent 5,341,806 to Gadsby et al. (hereinafter “Gadsby”).

Like Ayers, the description of Gadsby relates to a device that includes multiple elongate conductive elements and electrodes for use with ECG equipment. Unlike Ayers, none of the elongate conductive elements of the device of Gadsby branches from the flat substrate upon which they are carried.

Therefore, it is respectfully submitted that Gadsby includes no express or inherent description of an electrode with conductive elements including regions “that are not carried by [an] electrically insulative substrate,” as would be required to anticipate each and every element of amended independent claim 1.

Furthermore, Gadsby neither expressly nor inherently describes electrodes that are or may be “spaced apart from one another a distance that facilitates the non-invasive impedance measurement of tissue constituents,” as would be required for Ayer to anticipate each and every element of amended independent claim 1.

Therefore, it is respectfully submitted that, under 35 U.S.C. § 102(b), the subject matter recited in amended independent claim 1 is allowable over the subject matter described in Gadsby.

Each of claims 2-4 is allowable, among other reasons, for depending directly or indirectly from amended independent claim 1, which is allowable.

The rejections of claims 8-10 are moot, as each of these claims has been canceled without prejudice or disclaimer.

**Marks**

Claims 1-4, 8, and 9 have been rejected under 35 U.S.C. § 102(e) for being directed to subject matter which is assertedly anticipated by the subject matter described in U.S. Patent Application Publication 2005/0070808 A1 of Marks et al. (hereinafter “Marks”).

Marks describes a system, including electrodes, for use in plethysmographically measuring peripheral blood flow (*i.e.*, blood flow in a subject’s extremities). The electrode of Marks includes two parallel, spaced apart branches, each of which apparently carries two leads.

The leads of Marks are not linear, as would be required for Marks to anticipate each and every element of amended independent claim 1.

Moreover, Marks lacks any express or inherent description as to the spacing between the branches, let alone that the branches are “spaced apart from one another a distance that facilitates the non-invasive impedance measurement of tissue constituents,” as would be required for Marks to anticipate each and every element of amended independent claim 1.

Thus, under 35 U.S.C. § 102(e), the subject matter to which amended independent claim 1 is directed is allowable over the subject matter disclosed in Marks.

Claims 2-4 are each allowable, among other reasons, for depending directly or indirectly from amended independent claim 1, which is allowable.

Claims 8 and 9 have been canceled without prejudice or disclaimer, rendering the rejections thereof moot.

**Rejections under 35 U.S.C. § 103(a)**

Claims 10 and 13 have been rejected under 35 U.S.C. § 103(a).

Claim 10 has been canceled without prejudice or disclaimer. As such the 35 U.S.C. § 103(a) rejection of claim 10 is moot.

Claim 13 is allowable, among other reasons, for depending directly from amended independent claim 1, which is allowable.

**Allowable Subject Matter**

The allowance of claims 14-20 is gratefully acknowledged.

**New Claims**

New claims 53-57 have been added. New claim 53 is an independent claim that is drawn to an electrode strip. New claims 54-57 depend from new independent claim 53. It is respectfully submitted that none of new claims 53-57 introduces new matter into the above-referenced application. It is further submitted that the subject matter to which each of new claims 53-57 is directed is allowable over the subject matter upon which the Office has relied in the rejections that were presented in the Office Action of April 10, 2006.

**CONCLUSION**

It is respectfully submitted that each of claims 1-7, 11-20, and 53-57 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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